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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,876	04/14/2004	Bernhard Beer	18584-0014	6181
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SUTHERLAND ASBILL & BRENNAN LLP 999 PEACHTREE STREET, N.E. ATLANTA, GA 30309				
			EXAMINER FERGUSON, MICHAEL P	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,876

Applicant(s)

BEER ET AL.

Examiner

Michael P. Ferguson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 6,9,20,23,29 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,8,10-19,21,22,24-28,30,31 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/25/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species 1, Figures 1-3, claims 1-5,7,8,10-19,21,22,24-28,30,31 and 33, in the reply filed on October 25, 2005 is acknowledged. The traversal is on the ground(s) that the search of multiple species would not impose undue burden on the examiner because of the close technical relationship between the devices of the different species. This is not found persuasive because the applicant has failed to provide any reasoning to support the general allegation of no serious burden on the examiner. Furthermore, it imposes a serious burden on the examiner to have to examine multiple patentably distinct species in the same application, such examination including searching for features that otherwise would not have to be searched for, applying appropriate prior art rejections and having to consider and respond to attorney arguments regarding these features and rejections..

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 6,9,20,23,29 and 32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on October 25, 2005.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Objections

4. Claims 10, 30 and 33 are objected to because of the following informalities:

Claim 10 (line 4) recites "to claim 1". It should recite --to claim 5--.

Claim 30 (line 1) recites "The fastening of". It should recite --The fastening element of--.

Claim 30 (line 2) recites "the first bushing-receiving elements". It should recite --the first bushings--.

Claim 33 (line 2) recites "to claim and bushings". It should recite --to claim 25 and bushings--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 (line 2) recites "preferably steel". The term "preferably" renders the claim indefinite as it is unclear as to what is positively claimed as the invention.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-5,7,8,10-19,21,22,24-28,30,31 and are 33 rejected under 35 U.S.C. 102(b) as being anticipated by Lopez-Crevillen et al. (US 4,394,853).

As to claim 1, Lopez-Crevillen et al. disclose a fastening element capable of use with plastic containers, the fastening element comprising a plurality of first bushings **56** interconnected by connecting bridges **52,54,55** (Figures 3 and 5).

As to claim 2, Lopez-Crevillen et al. disclose a fastening element wherein the bushings **56** are made of the same material (cross-section; Figure 3) as the connecting bridges **52,54,55** connecting the bushings.

As to claim 3, Lopez-Crevillen et al. disclose a fastening element wherein the bushings **56** and connecting bridges **52,54,55** are made of metal (cross-section; Figure 3).

As to claim 4, Lopez-Crevillen et al. disclose a fastening element wherein the first bushings **56** and the connecting bridges **52,54,55** are made of metal (cross-section; Figure 3), and the fastening element is formed as a single piece, or the first bushings and the connecting bridges are joined by welding (column 3 lines 7-8).

As to claim 5, Lopez-Crevillen et al. disclose a fastening element wherein the connecting bridges **52,54,55** are formed as a metal sheet (cross-section; Figure 3).

As to claim 7, Lopez-Crevillen et al. disclose a fastening element wherein the width of the metal sheet **52,55** is essentially parallel to the longitudinal axes of the first bushings **55** (Figure 3).

As to claim 8, Lopez-Crevillen et al. disclose a fastening element wherein the metal sheet **52,54,55** is beaded or has an L-shaped cross-section (cross-section; Figure 3).

As to claim 10, Lopez-Crevillen et al. disclose a plastic container **27,42** (comprising plastic seal **42**) for liquids comprising an opening, a flange **35,36** being formed along at least a portion of the periphery of the opening, the flange having recesses **63** extending through the thickness of the flange to accommodate the first bushings **56** of the fastening element, the connecting bridge **52,54,55** or metal sheet of the fastening element making accurately fitting and positive contact at the lower edge of

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the flange following attachment of the fastening element to the plastic container (Figure 5).

As to claim 11, Lopez-Crevillen et al. disclose a plastic container wherein the plastic container is an engine oil pan or a transmission oil pan (Figure 5).

As to claim 12, Lopez-Crevillen et al. disclose a fastening system capable of use with liquid-proof flanging or attachment of plastic containers for liquids, the fastening system comprising a fastening element having a plurality of first bushings **56**, interconnected by connecting bridges **52,54,56**, and a flange **35,36** (Figures 3 and 5).

As to claim 13, Lopez-Crevillen et al. disclose a fastening system wherein the flange **35,36** is arranged along at least a portion of the periphery of an opening of the plastic container (Figure 5).

As to claim 14, Lopez-Crevillen et al. disclose a fastening system wherein the flange **35,36** has recesses **63** extending through the thickness of the flange to accommodate the first bushings **56** of the fastening element (Figure 5).

As to claim 15, Lopez-Crevillen et al. disclose a fastening system wherein following attachment of the fastening element to the plastic container, the connecting bridge **52,54,55** of the fastening element makes accurately fitting and positive contact at the lower edge of the flange **35,36** (Figures 3 and 5).

As to claim 16, Lopez-Crevillen et al. disclose a fastening system wherein the bushings **56** are made of the same material (cross-section; Figure 3) as the connecting bridges **52,54,55** connecting the bushings.

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As to claim 17, Lopez-Crevillen et al. disclose a fastening system wherein the bushings **56** and the connecting bridges **52,54,55** are made of metal (cross-section; Figure 3).

As to claim 18, Lopez-Crevillen et al. disclose a fastening system wherein the first bushings **56** and the connecting bridges **52,54,56** are made of metal (cross-section; Figure 3), and that the fastening element is formed as a single piece, or the first bushings and the connecting bridges are joined by welding (column 3 lines 7-8).

As to claim 19, Lopez-Crevillen et al. disclose a fastening system wherein the connecting bridges **52,54,55** are in the form of a metal sheet (cross-section; Figure 3).

As to claim 21, Lopez-Crevillen et al. disclose a fastening system wherein the width of the metal sheet **54,55** is essentially parallel to the longitudinal axes of the first bushings **56** (Figure 3).

As to claim 22, Lopez-Crevillen et al. disclose a fastening system wherein the metal sheet **52,54,55** is beaded or has an L-shaped cross-section (Figure 3).

As to claim 24, Lopez-Crevillen et al. disclose a fastening system wherein the plastic container is an engine oil pan or a transmission oil pan (Figure 5).

As to claim 25, Lopez-Crevillen et al. disclose a fastening element capable of use with liquid-proof fastening of plastic containers for liquids to other component parts, the fastening element being present in the form of a support or connecting bridge **52,54,55** to receive and arrange a plurality of first bushings **56**, the fastening element comprising bushing-receiving elements (weld beads; column 3 lines 7-8) allowing insertion of bushings, the fastening element being adapted so as to make accurately fitting and

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positive contact at the lower edge of a flange **35,36** of an opening of the plastic container after attachment, the fastening element allowing insertion of bushings into bushing-receiving elements of the fastening element and thereafter into bushing-receiving elements **63** of the flange (Figures 3 and 5).

As to claim 26, Lopez-Crevillen et al. disclose a fastening element wherein the bushing-receiving elements (weld beads; column 3 lines 7-8) of the fastening element are through-holes.

As to claim 27, Lopez-Crevillen et al. disclose a fastening element wherein the fastening element is made of metal (cross-section; Figure 3).

As to claim 28, Lopez-Crevillen et al. disclose a fastening element wherein the fastening element is in the form of a metal sheet (cross-section; Figure 3).

As to claim 30, Lopez-Crevillen et al. disclose a fastening element wherein the width of the metal sheet **54,55** is essentially parallel to the longitudinal axes of the first bushings **56** (Figure 3).

As to claim 31, Lopez-Crevillen et al. disclose a fastening element wherein the metal sheet **52,54,55** is beaded or has an L-shaped cross-section (cross-section; Figure 3).

As to claim 33, Lopez-Crevillen et al. disclose a fastening system comprising a fastening element and bushings **56** having a widened portion on the outside thereof, the bushings allowing accurately fitting and positive insertion thereof into the bushing-receiving elements (weld beads; column 3 lines 7-8) of the fastening element, and the

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widened portion of the bushings preventing slipping of the bushings through the bushing-receiving elements of the fastening element.

Conclusion

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The following patents show the state of the art with respect to fastening elements:

Kiczek (US 5,365,901), Freissle et al. (US 5,938,042) and Pachciarz et al. (US 6,435,365) are cited for pertaining to elements comprising a plurality of first bushings and connecting bridges.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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11/03/05

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